

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

REAL PROPERTY LOCATED AT
LAYTON, UTAH 84040, et al.,

Defendants.

MEMORANDUM DECISION AND
ORDER GRANTING UNITED
STATES' UNOPPOSED MOTION
TO DISMISS CLAIMANTS'
COUNTERCLAIMS

Case No. 1:07-CV-006 TS

This matter is before the Court on the United States' unopposed Motion to Dismiss
Claimants' Counterclaims.

The Counterclaims at issue were filed on March 14, 2007, by Claimants Shane Parkinson, Shelly Parkinson, Mark G. Ward, Courtney Ward, and CCM Unlimited, LLC (Counterclaimants).¹ The counterclaims seek monetary damages for alleged Rule 11 sanctions, loss of interest, violations of constitutional rights under § 1983, and due process

¹Docket No. 33.

violations. The United States moves to dismiss the Counterclaims based on sovereign immunity and lack of standing. The Counterclaimants do not oppose the dismissal.

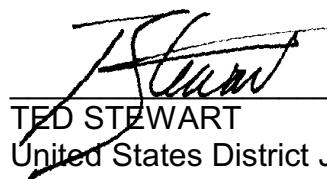
“It is elementary that the United States, as sovereign, is immune from suit save as it consents to be sued, and the terms of its consent to be sued in any court define that court’s jurisdiction to entertain the suit.”² Counterclaimants have the burden of establishing that their counterclaims fall within an unequivocally expressed waiver of sovereign immunity. Counterclaimants have not met that burden in their Counterclaim or in any other filing. It is therefore

ORDERED that the United States’ unopposed Motion to Dismiss Claimants’ Counterclaim (Docket No. 37) is GRANTED. It is further

ORDERED that the Counterclaims filed by Claimants Shane Parkinson, Shelly Parkinson, Mark G. Ward, Courtney Ward, and CCM Unlimited, LLC, are DISMISSED WITHOUT PREJUDICE.

DATED September 4, 2007.

BY THE COURT:



TED STEWART
United States District Judge

²*Merida Delgado v. Gonzales*, 428 F.3d 916, 919 (10th Cir. 2005) (quoting *United States v. Mitchell*, 445 U.S. 535, 538 (1980)).